

REMARKS

Favorable consideration of this application is respectfully requested in view of the above amendment and the following remarks. Entry of the amendment is respectfully requested.

Claims 1-15, 17, 18, 20 and 21 are pending in the application. Claims 12, 15 and 20 have been withdrawn. Claims 1-11, 13, 14, 17, 18 and 21 have been rejected. Claims 1-11, 13, 14 and 18 have been amended. Claim 21 has been cancelled without prejudice. It is submitted that no new matter has been added.

The Examiner has made the Restriction Requirement final and has indicated that the application has been examined to the extent readable on the elected compounds wherein R¹ represents (optionally substituted) pyridyl, R² represent substituted phenyl, R⁵-R⁹ represent non-heterocyclic groups and X, R³, R⁴ as set forth in claim 1, exclusively. The Examiner also indicated that claim 18 has been examined to the extent readable on the elected method of use, i.e., treatment of benign prostate hyperplasia. The Examiner has also suggested that the nonelected subject matter be deleted.

In response, in view of the Restriction Requirement and the Examiner's statements indicated above, claims 1-11, 13, 14, 17, and 18 have been amended to delete non-elected subject matter. As amended claim 18 recites the specific disorder "benign prostate hyperplasia", claim 21 has been cancelled without prejudice.

Claims 1-11, 13, 14 and 17-19 have been provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-9, 11, 13-18, 23, 31 and 32 of copending application no. 11/587,192 (the '192 application).

In response, Applicants note that in the '192 application (also referred herein as the later-filed application, PCT filed on April 21, 2005), a terminal disclaimer was filed against the present application (the earlier-filed application, PCT filed November 3, 2003). In view that a terminal


disclaimer was filed in the '192 application, it is respectfully requested that the non-statutory obviousness-type double patenting rejection in the present application, i.e., the earlier-filed application, be withdrawn.

A good faith effort has been made to place the present application in condition for allowance. If the Examiner believes a telephone conference would be of value, she is requested to call the undersigned at the number listed below.

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Respectfully submitted,

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